

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF VIRGINIA

IN RE: . Case No. 08-35653 (KRH)  
. .  
. Chapter 11  
. Jointly Administered  
CIRCUIT CITY STORES, .  
INC., et al., . 701 East Broad Street  
. Richmond, VA 23219  
. .  
Debtors. .  
. July 10, 2012  
. . 2:13 p.m.  
. . . . .

TRANSCRIPT OF HEARING  
BEFORE HONORABLE KEVIN R. HUENNEKENS  
UNITED STATES BANKRUPTCY COURT JUDGE

APPEARANCES:

For the Debtor: Tavenner and Beran, PLC  
By: PAULA BERAN, ESQ.  
LYNN TAVENNER, ESQ.  
20 North Eighth Street, 2nd Floor  
Richmond, VA 23219  
  
For Mannington : Buswell Roberts, Jr., PLLC  
Carpets, Inc. By: HENRY BUSWELL ROBERTS, JR., ESQ.  
2001 South Main St., Unit 206-A  
Blacksburg, VA 24060

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For the Debtor:

Pachulski Stang Ziehl & Jones LLP  
By: ANDREW CAINE, ESQ.  
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13th Floor  
Los Angeles, CA 90067

- - -

1 COURTROOM DEPUTY: All rise. The court is now in  
2 session. Please be seated and come to order.

3 COURT CLERK: In the matter of Circuit City Stores,  
4 Incorporated, hearing on Items 1 through 56 as set out on  
5 proposed agenda.

6 MS. TAVENNER: Good afternoon, Your Honor.

7 THE COURT: Good afternoon, Ms. Tavenner. Long time,  
8 no see.

9 MS. TAVENNER: Yes, sir. For the record, Lynn  
10 Tavenner of the law firm of Tavenner & Beran. Together with me  
11 today is my law partner, Paula Beran, seated at counsel table.  
12 Also seated at counsel table is Ms. Catherine Bradshaw, the  
13 senior trust manager. And on the phone is Mr. Andy Caine of  
14 the Pachulski law firm.

15 Your Honor, we have a number of claims matters that  
16 are on the docket today. But in advance of those, if Your  
17 Honor pleases, I would like to address the non-claims matters  
18 and then Ms. Beran will address the claims.

19 THE COURT: All right. Very good.

20 MS. TAVENNER: So, I'd like to go in order, Your  
21 Honor.

22 THE COURT: All right.

23 MS. TAVENNER: Thank you. The first matter is  
24 actually a pretrial conference with regard to the adversary  
25 proceeding Siegel against Mannington Carpets, Inc. Your Honor,

1 we have engaged in a mediation with Mr. Rick Meth. Mr. Meth  
2 has filed his report. It did not settle. And we are here  
3 today to get a trial date to move forward to the next phase.  
4 Mr. Buswell Roberts is -- counsel to the defendant is here in  
5 the courtroom, as well.

6 I have discussed the matter with Mr. Roberts and we  
7 believe -- I mean, it will -- we have not completed discovery.  
8 We believe that discovery will take probably 90 days and we are  
9 looking at this point to get the Court's next available date in  
10 the new year, if that pleases Your Honor.

11 THE COURT: All right. How long do --

12 MS. TAVENNER: We believe that the trial will take --

13 THE COURT: Yes.

14 MS. TAVENNER: -- approximately one and a half to two  
15 days.

16 THE COURT: All right. Well, let's reserve two days  
17 then just so that we can be on the safe side.

18 Mr. Roberts, you wish to be heard?

19 MR. ROBERTS: No, I agree with what Ms. Tavenner just  
20 said, Your Honor. Two days. A trial date in -- at your court  
21 -- the Court's convenience in January, February --

22 THE COURT: Why don't you come to the podium, then.

23 MR. ROBERTS: Thank you.

24 THE COURT: Can you just state your appearance for  
25 the record?

1 MR. ROBERTS: Yes. My name is Buswell Roberts and  
2 I'm here on behalf of Mannington Carpets, Inc.

3 THE COURT: Thank you so much. All right. So, I'm  
4 going to look for some dates in the new year. I can  
5 accommodate you in -- you've already got one trial scheduled in  
6 early January, Ms. Tavenner.

7 MS. TAVENNER: Yes.

8 THE COURT: What about the 28th and the 29th of  
9 January?

10 MS. TAVENNER: That would work for the trust, Your  
11 Honor.

12 MR. ROBERTS: That works for Mannington Carpets, Your  
13 Honor.

14 THE COURT: All right. So, we'll do the two-day  
15 trial beginning at ten o'clock on the 28th and going through  
16 and concluding then on the 29th.

17 MS. TAVENNER: Thank you, Your Honor.

18 THE COURT: All right. And the Court then will issue  
19 its normal pretrial order. Do you need anything different  
20 other than what the Court would usually issue?

21 MS. TAVENNER: I don't believe so, Your Honor. Thank  
22 you.

23 THE COURT: Okay. Very good.

24 MR. ROBERTS: Thank you, Your Honor.

25 THE COURT: All right. Thank you both.

1 MS. TAVENNER: Thank you, Your Honor.

2 Mr. Roberts has a long trip back to the New River  
3 Valley and we would respectfully request that he be excused.

4 THE COURT: You're excused, Mr. Roberts. Thank you.

5 MR. ROBERTS: Thank you, Your Honor.

6 MS. TAVENNER: Your Honor, the next matter on the  
7 docket is a motion in the adversary Siegel against B.R. Fries.  
8 It's a motion to dismiss the adversary proceeding.

9 Your Honor, this matter has been carried on the  
10 Court's docket. We did conduct an initial mediation, but that  
11 mediation has been continued for additional exchange of  
12 information. We are in that process. Accordingly, we would  
13 respectfully request that this matter be continued until the  
14 Court's August 23rd date.

15 THE COURT: Okay. That'll be continued to August 23.

16 MS. TAVENNER: Thank you, Your Honor.

17 Item 3 is Siegel against SYNEX Corporation. Your  
18 Honor, this is actually a discovery motion to compel, styled  
19 motion for order pursuant to Rule 7037 against SYNEX  
20 Corporation, a/k/a New Age Electronics for failure to respond  
21 to discovery and for sanctions.

22 Your Honor might recall, this matter is actually  
23 scheduled for trial at the end of August. Discovery is  
24 ongoing. We are still hopeful that we will get this resolved.  
25 As a result, we are respectfully requesting that you continue

1 the matter but only until the July 26th date, because we  
2 certainly will know in the next few days actually whether or  
3 not we have resolution or if we will need to notice this up for  
4 a substantive hearing at the July 26 date.

5 THE COURT: All right, because I was concerned that  
6 this one's been going on and that we're pushing up against that  
7 trial date without resolution. I'm disappointed to hear that  
8 we haven't gotten this resolved. But, yes, most definitely.  
9 Do you need a date before that date?

10 MS. TAVENNER: I think we are fine with that July  
11 26th date. Literally, Your Honor, we will know within the next  
12 day or two as to whether or not we're going forward  
13 substantively. If so, I would propose that we actually send  
14 out a notice of hearing with that regard and actually give the  
15 defendant time to respond which I would suggest would be a week  
16 before July 19th. And then if the plaintiff believes it's  
17 necessary to file a reply, that we do that by July 24.

18 THE COURT: Okay. That time frame is fine with the  
19 Court. So let's go with that and get this matter resolved one  
20 way or the other.

21 MS. TAVENNER: Thank you, Your Honor.

22 That brings us to the third section on the docket  
23 which is claim objections which Ms. Beran will address with the  
24 Court.

25 THE COURT: All right. Very good. Thank you.

1 MS. TAVENNER: Thank you, Your Honor.

2 MS. BERAN: Good afternoon, Your Honor. For the  
3 record, Paula Beran of the law firm of Tavenner & Beran.

4 Your Honor, Item Number 4 is the debtors' nineteenth  
5 omnibus objection. There still remains one claim subject to  
6 that objection. We'd respectfully request that the matter be  
7 continued until October 9th for a status hearing.

8 THE COURT: All right. It'll be continued.

9 MS. BERAN: Thank you, Your Honor.

10 Turning to Page 7, Your Honor, is the debtors'  
11 thirty-first omnibus objection. There are still a handful of  
12 claims that remain outstanding as it relates to that objection.  
13 We'd respectfully request that it be continued for status  
14 purposes till October 9th.

15 THE COURT: All right. It can be continued until  
16 October 9.

17 MS. BERAN: Turning on Page 10 to the debtors'  
18 thirty-seventh omnibus objection, as Your Honor will see on  
19 Exhibit A there has been a resolution of certain claims as it  
20 relates to that omnibus objection. However, Your Honor, there  
21 is still a handful of claims that remained outstanding pursuant  
22 to that objection and we'd respectfully request that they be  
23 continued for status purposes until October 9th.

24 THE COURT: That'll be continued to October 9.

25 MS. BERAN: Thank you, Your Honor. Turning then,



1 Your Honor, to Page 15, the debtors' sixtieth omnibus  
2 objection, there's still one claim that remains outstanding as  
3 it relates to that objection. We'd respectfully request that  
4 it be continued till October 9th for status purposes.

5 THE COURT: All right. It'll be continued to October  
6 9.

7 MS. BERAN: Thank you, Your Honor.

8 Turning to Page 17 on the debtors' seventy-sixth  
9 omnibus objection, similarly, there is one claim that remains  
10 outstanding, subject to that objection. We'd respectfully  
11 request that it be continued until October 9th for status  
12 purposes.

13 THE COURT: It'll be continued to the 9th.

14 MS. BERAN: Thank you, Your Honor. Turning over to  
15 Page 19, the debtors' seventy-ninth omnibus objection, there  
16 are claims that remained outstanding as it relates to that  
17 objection. We'd respectfully request that the objection be  
18 continued till October 9th for status purposes.

19 THE COURT: All right. It'll be continued.

20 MS. BERAN: Your Honor, on Page 21 is the objection  
21 to the claim of the California Board of Equalization. We'd  
22 respectfully request that this matter be continued until  
23 October 9th for status purposes.

24 THE COURT: That will be continued to the 9th.

25 MS. BERAN: Thank you, Your Honor.

1 Turning to Page 23, it's another standalone objection  
2 to a tax entity, specifically the Tennessee Department of  
3 Revenue. We'd respectfully request that that be continued for  
4 status purposes until October 9th.

5 THE COURT: All right. It can be continued to  
6 October 9.

7 MS. BERAN: Thank you, Your Honor. Similarly, on  
8 Page 24, the objection by the -- to the claim of the Wisconsin  
9 Department of Revenue, we'd respectfully request to be  
10 continued till October 9th for status purposes.

11 THE COURT: All right. It can be continued.

12 MS. BERAN: Thank you, Your Honor.

13 Your Honor may recall, as it relates to Item Number  
14 13 on Page 26 is the objection to the claim to the Louisiana  
15 Department of Revenue. That matter has been settled in  
16 concept.

17 We are still trying to document and consummate that.  
18 Given that it's a taxing entity, the documentation and approval  
19 of documentation takes a little bit more time than some of the  
20 other types of entities. And so we still don't have a  
21 finalized, executed document. So we'd respectfully request  
22 that this matter be, again, continued for status purposes to  
23 October 9th and we're hopeful and/or optimistic that on October  
24 9th, this matter may be removed from the Court's docket.

25 THE COURT: All right. Very good. It'll be

1 continued to the 9th.

2 MS. BERAN: Thank you, Your Honor.

3 Turning to Page 29, Item Number 14th is the objection  
4 as it relates to the Commonwealth of Massachusetts claims.  
5 We'd respectfully request that that be continued until October  
6 9th for status hearing purposes.

7 THE COURT: And that can be continued.

8 MS. BERAN: Thank you, Your Honor.

9 Similarly, as it relates to Item Number 15, the  
10 debtors' objections to claims filed by the State of New Jersey,  
11 we'd respectfully request that they be continued for status  
12 purposes until October 9th.

13 THE COURT: All right. They can be continued to  
14 October 9.

15 MS. BERAN: Thank you, Your Honor.

16 Your Honor, that brings us then to Page 32, Item  
17 Number 16 which is the debtors' objection to claims filed by  
18 the Commonwealth of Virginia Department of Taxation. We'd  
19 respectfully request that they be continued for status purposes  
20 until October 9th.

21 THE COURT: They can be continued to October 9.

22 MS. BERAN: Thank you, Your Honor.

23 Your Honor, that then brings us to the remaining  
24 claims objections which are the actual -- the liquidating  
25 trust's objections. In connection with that, Your Honor, there

1 -- filed with the agenda was Exhibit B which is a status chart  
2 of the -- those that remain outstanding.

3 Your Honor, since the filing of that, there have been  
4 a couple of amendments and I have with me a blackline amended  
5 Exhibit B that I will tender to Your Honor. We intentionally  
6 did not file it with the court this morning because we did not  
7 want people to panic, thinking there was significant changes.  
8 I will indicate where the changes are, Your Honor.

9 But, in summary, there's an instance where one matter  
10 has been settled so it's not to anyone's detriment it's to the  
11 benefit, as well as, Your Honor, a substantive response was  
12 filed yesterday afternoon and the trust agreed that the trust  
13 would not raise any objections as it relates to the  
14 untimeliness of the filing of the response. And we've so  
15 indicated that and are continuing that as we have done with the  
16 other timely filed responses. But I will indicate that.

17 In addition, Your Honor, there were several responses  
18 that were timely filed last weekend or earlier than last week  
19 and in connection with those responses, Your Honor,  
20 unfortunately, there was not the signature of or endorsement of  
21 local counsel. The court case administrator so indicated.  
22 Efficiency was just issued, and that was corrected.

23 So there were a number of amended responses filed  
24 yesterday. We have so indicated those on our status chart,  
25 basically indicating the initial response as well as the docket

1 number for the amended responses. I will point each one out as  
2 we go forward, Your Honor, but I just wanted to make that  
3 representation and am happy to tender this -- the blackline  
4 version to Your Honor.

5 THE COURT: All right. That's fine. Now, let me ask  
6 you this question. Is it possible to deal with these --  
7 because most of them fall in exactly the same kind of pattern  
8 that we've dealt with previously where we've got, you know,  
9 certain of them where the status hearing is going forward,  
10 certain of them where it's going to be adjourned, and the like.  
11 And I'm just wondering if we can address the ones that are  
12 different and then deal with everything else accordingly or do  
13 you need to go through each one by --

14 MS. BERAN: Your Honor, from the trust's perspective,  
15 we do not need to go through each one until near the --

16 THE COURT: Because I've read them, you know. I  
17 promise you that. I just was wondering --

18 MS. BERAN: Your Honor, until the -- to the -- near  
19 the end of the agenda, I don't believe we need to go through  
20 them individually. What we -- I would represent to Your Honor  
21 is, Exhibit B has on it, in connection with the status column,  
22 those instances where the trust has agreed to extend the  
23 response date, that response date has been extended until  
24 October 2nd, as well as then a status hearing to be conducted  
25 on October 9th. In those instances where a response has been

1 filed, the status column indicates that we're continuing it for  
2 status purposes until October 9th for a hearing.

3 In addition, Your Honor, you will see those instances  
4 where the trust has resolved the objection as it relates to  
5 certain claims, status column indicates that. I am happy to  
6 report, Your Honor, and I'm sure Your Honor saw on Exhibit B,  
7 that since we've last been here, there have been a substantial  
8 amount of resolutions and we're --

9 THE COURT: I did note that, thank you.

10 MS. BERAN: Thank you, Your Honor. And then in  
11 addition, Your Honor, there are a couple instances that I've  
12 indicated on the chart where the response period was extended.  
13 And we indicated that we really need a response because it's  
14 kind of a handful of claims left on a certain objection and no  
15 response was filed and there -- no additional contact has been  
16 made. And so in connection with those, Your Honor, we have so  
17 indicated both on the agenda, as well on Exhibit B, that the  
18 objection may be sustained as it relates to those.

19 And then finally, Your Honor, there are certain  
20 instances as indicated on Exhibit B where, after exchange of  
21 information, the trust has agreed to and/or has already  
22 withdrawn the objection as it relates to those claimants.

23 THE COURT: All right.

24 MS. BERAN: With that being said, Your Honor, we  
25 would respectfully request the Court grant the relief requested

1 in the -- on the agenda that was filed on Items Number 17  
2 through --

3 THE COURT: -- 56, it looks like to me.

4 MS. BERAN: Correct, Your Honor, 17 through 55 and  
5 then I'll pick up at 56. Absolutely, Your Honor.

6 THE COURT: Okay. That's fine. And that'll be  
7 granted. Now, any of these --

8 MS. BERAN: It might be helpful, Your Honor -- I  
9 apologize for the record -- if I just point out those instances  
10 on the amended.

11 THE COURT: That's what I wanted you to do.

12 MS. BERAN: Your Honor, I --

13 THE COURT: And second, if there's anything that's  
14 going to be set down for a substantive hearing, you know, other  
15 than adjourning it for status that we're not going to deal with  
16 today, then, obviously, I want a separate notice sent out like  
17 we've been doing so that nobody's taken by surprise.

18 MS. BERAN: Correct, Your Honor. We fully intend to.  
19 We are in discussions with a couple claimants that, if we can't  
20 come to a resolution, that it may be set down for substantive  
21 hearing but we're looking at more in the September time period.

22 THE COURT: Which is just fine.

23 MS. BERAN: Your Honor, as it relates to the amended  
24 blackline document I just handed up to Your Honor, I believe  
25 the first amendment is on -- yes, Your Honor, it is on -- of

1 the amended exhibit, it's on Page 35, as it relates to Puente  
2 Hills Mall LLC. That matter has been settled pursuant to  
3 procedures previously approved by the Court and may be removed  
4 from the Court's docket.

5 THE COURT: Excellent. All right.

6 MS. BERAN: In addition, Your Honor, throughout, you  
7 will see on the amended -- for example, let me just give you an  
8 example of one of those instances where there was an amended  
9 response filed particularly -- or solely for the purposes of  
10 indicating that local counsel's endorsement was then provided  
11 thereon. And that would be, for example, Your Honor, starting  
12 on Page 96 for the various Berkadia Commercial Mortgage LLC  
13 claims. You'll see previously we had indicated docket numbers  
14 and new responses were added to the Court's docket yesterday  
15 and we have just so indicated on Exhibit B.

16 THE COURT: All right. Very good.

17 MS. BERAN: And then, the third category of changes  
18 that were made deals with -- it's the forty-first omnibus  
19 objection. And that would be on Page --

20 THE COURT: 121?

21 MS. BERAN: One -- actually on Page 128, the  
22 Orangefair Marketplace LLC. A response was filed yesterday and  
23 as indicated, Your Honor, the trust indicated with the claimant  
24 that it would not object to a late filed response. And we are  
25 in the process now to exchange information. Therefore, we



1 respectfully request that that matter be continued for status  
2 purposes until the October 9th date.

3 THE COURT: Very good.

4 MS. BERAN: Your Honor, with those exceptions -- and  
5 we will go ahead and file the amended Exhibit B with the Court  
6 after this hearing and explain the same to Ms. McLemore. And  
7 with that being said, Your Honor, we'd respectfully request  
8 that the Court grant the relief requested in the agenda in  
9 connection with Item 17 through 55.

10 THE COURT: Does any party wish to be heard in  
11 connection with any of the matters set down on the Court's  
12 agenda, matters Number 16 through 55?

13 (No audible response)

14 THE COURT: All right. There being no response, then  
15 that relief is granted.

16 MS. BERAN: Thank you, Your Honor. Your Honor, just  
17 jumping right back up to Item Number 55, I did neglect to  
18 inform the Court, given the fact that this is being continued  
19 for status purposes, Mr. Neil McCullagh who is co-counsel for  
20 PNY requested -- inquired as to whether his attendance was  
21 necessary. And given the fact that we said right on the agenda  
22 it wasn't, we represented to him, and he indicated yesterday  
23 afternoon based on the same that neither he nor his co-counsel  
24 who filed a motion to appear telephonically would be appearing  
25 today.

1 THE COURT: And that's just fine.

2 MS. BERAN: Thank you, Your Honor. Your Honor, Item  
3 Number 56 is the trust's objection to the claim filed by Chase  
4 Bank USA. By agreement of the parties, Your Honor, we'd  
5 respectfully request that this matter be continued until the  
6 September 19th, which is different than the others, but it's on  
7 a different path because there's an exchange of information and  
8 a timetable associated with that exchange of information. So,  
9 based on agreement of parties, Your Honor, we'd respectfully  
10 request that be continued till September 19th hearing for  
11 status purposes.

12 THE COURT: All right. And that one will be  
13 continued then to the 19th.

14 MS. BERAN: Your Honor, and I believe that would  
15 involve the -- all items as listed on the agenda. To the  
16 extent Your Honor has any status questions about the claims or  
17 about any of the APs or any other item in connection with this  
18 case, I'm happy to try and answer and/or Ms. Bradshaw is here,  
19 Ms. Tavenner's here and I do believe Mr. Caine is on the  
20 telephone, as well.

21 THE COURT: No, the only comment that the Court had  
22 was that I had noticed, and you've already stated on the  
23 record, the progress that has been made in resolving many of  
24 these matters. And I just wanted to let you know that I was  
25 aware of that and pleased that we're making that progress and

1 obviously hope that, you know, that continues and -- between  
2 now and the next time we are back together.

3 MS. BERAN: Thank you, Your Honor.

4 THE COURT: All right. So is there any other  
5 business we need to take up, then, in Circuit City?

6 MS. BERAN: No, Your Honor.

7 THE COURT: All right. Well, thank you very much.

8 MS. BERAN: Thank you, Your Honor.

9 COURTROOM DEPUTY: All rise. Court's now adjourned.

10 \* \* \* \* \*

11 C E R T I F I C A T I O N

12 I, STEPHANIE SCHMITTER, court approved transcriber,  
13 certify that the foregoing is a correct transcript from the  
14 official electronic sound recording of the proceedings in the  
15 above-entitled matter, and to the best of my ability.

16

17

18 /s/ Stephanie Schmitter

19 STEPHANIE SCHMITTER

20 J&J COURT TRANSCRIBERS, INC.

DATE: July 23, 2012

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